IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14982 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ISHVERBHAI V BARNADA & 2 - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR CB DASTOOR for Petitioner No(s).: 1,2,3.
MR DIPEN DESAI, AGP for Respondent No(s).: 1.
NOTICE SERVED BY DS for Respondent No(s).: 2,3.

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date : 11/08/2005

ORAL JUDGMENT

RULE. Mr.Desai, learned AGP, waives service of notice of rule on behalf of the respondents. With the consent of the parties, this matter is taken up for final hearing today.

By filing this petition, the petitioners have challenged the reversion order dated 29th April, 2003 passed by the respondents. By the said order, the petitioners have been reverted from the post of Junior Clerk to the post of Peon, i.e., from class-III post to Class-IV post. The reversion order is passed on the ground that the petitioners have not undertaken training prescribed by the Government and they have not passed the examination. It is also stated that as per the Rules, the petitioners are required to pass examination after completing the training. The petitioners have challenged the aforesaid reversion order by filing this petition on various ground.

Learned advocate Mr.Dastoor appearing for the petitioners submitted that in Special Civil Application No.91 of 2005 and other cognate matters, which are identical to the present petition, learned Single Judge of this Court by order dated 8-4-2005 has allowed the aforesaid petitions and the respondents were directed to consider the cases of those petitioners for ad-hoc promotion in accordance with seniority and as per the administrative requirement. The learned Single Judge has

also directed that such exercise should be completed within a period of two months from the date of receipt of copy of the order. Copy of the said order of the learned Single Judge is produced on record at page 31, Annexure-F.

Learned AGP, Mr.Desai appearing for the respondents, submitted that the affidavit filed in this matter is similar to the affidavit which was filed in the aforesaid group of petitions. Mr.Desai has also frankly submitted that the point in issue is also identical to one which is adjudicated by this Court in the aforesaid group of petitions.

Since it is not in dispute that identical issue is decided by this Court, this petition is also required to be decided by giving similar directions. Under these circumstances, the respondents are directed to consider the case of the petitioners for ad-hoc promotion in accordance with seniority and as per the administrative requirement. The department is directed to undertake this exercise and pass appropriate order in accordance with

law within a period of two months from the date of receipt of copy of this order.

Accordingly, this petition is allowed to the aforesaid extent as per aforesaid directions. Rule made absolute to the aforesaid extent. No order as to costs.

Direct service is permitted.

(P.B.MAJMUDAR, J.)

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